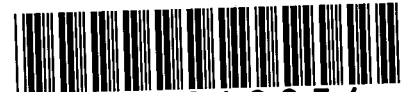


ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMM

28

IN THE MATTER OF THE COMMISSION ON ITS )  
OWN MOTION INVESTIGATING THE FAILURE )  
OF BEAVER VALLEY WATER COMPANY, AZ )  
ARIZONA PARTNERSHIP, TO COMPLY WITH )  
COMMISSION DECISION NO. 66388, 68083 AND )  
A.A.C. R14-2-411(D)(4) )

DOCKET NO. W-0215A-06-0223

RESPONSE TO COMPLAINT  
AND PETITION TO SHOW  
CAUSE - DAVOREN

Respondent MICHAEL T. DAVOREN hereby submits his responses to the Complaint and Petition for the Order to Show Cause filed by the Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"), against BEAVER VALLEY WATER COMPANY:

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1. Respondent Davoren agrees
2. Respondent Davoren agrees
3. Respondent Davoren agrees
4. Respondent Davoren agrees
5. Respondent Davoren denies this paragraph on the grounds that the commission had no legal precedent by which to restrict the approval of rate increase to a sale of the utility to a "fit and proper entity." No case precedent exists whereby a utility is required to sell its assets to qualify for a Commission approved increase in rates. Furthermore, BVWC provided the Commission with evidence of its compliance with ADEQ standards at the time of application of rate increase.
6. Respondent Davoren agrees
7.
  - 1) Respondent Davoren agrees
  - 2) Respondent Davoren agrees that the Commission received the letter from ADEQ establishing acceptable drinking water standards, (the December 14, 2005 letter) but denies that it is out of compliance due the fact that Respondent Davoren has not owned the utility during the "warmest time of the year."
  - 3) Respondent Davoren agrees
  - 4) Respondent Davoren agrees

5) Respondent Davoren denies this paragraph insofar as said overcharges were to be terminated as of the August 17, 2005 wherein the Commission approved the transfer and imposed the previously approved rate increase as of that date. Davoren attempted in his best abilities to comply with the Commission's demands for customer credits as documented in this paragraph. Respondent Davoren reiterates under protest the validity and legality of these imposed credit based on previous responses herein.

6) Respondent Davoren denies all content of this paragraph as it applies to him.

8. Respondent Davoren agrees but denies any cause and effect of this letter
9. Respondent Davoren agrees but denies any cause and effect of said motion
10. Respondent Davoren agrees and continues to support allegations in said Request of Hearing, and furthermore questions the Commission's denial by an "operation of law" Furthermore, Respondent Davoren has this date refilled said REQUEST FOR HEARING CHALLENGE OF COMMISSION THIS DATE to be reviewed in the Commission ordered hearing on May 2-3, 2006.
11. Respondent Davoren agrees
12. Respondent Davoren incorporates his responses to paragraphs 1-11
13. Respondent Davoren indicates that this order has been completed as of the date of this Complaint.
14. Respondent Davoren incorporates his responses to Paragraphs 1-13
15. Respondent Davoren indicates that this order has been completed as of the date of this Complaint.
16. Respondent Davoren incorporates his responses to Paragraphs 1-15
17. Respondent Davoren indicates that ADEQ compliance was achieved and maintained pursuant to Decision No. 68083. ADEQ violations in the "April 5, 2006 letter" should be considered as new violations. Respondent Davoren was not aware of these "new" violations until after the Commission approved transfer was complete.

18. Respondent Davoren incorporates his responses to Paragraphs 1-17
19. Respondent Davoren has complied with Decision No. 68083, under protest, and contends that rates from the August 17, 2005 Decision should be based on the previously approved increased rates. Respondent Davoren denies that any rate overcharges apply from September 2005 on. It is his understanding that there are NO overcharges for this period.
20. Respondent Davoren incorporates his responses to Paragraphs 1-19
21. Respondent denies any responsibility for fines or penalties referenced herein
22. Respondent Davoren incorporates his responses to Paragraphs 1-21
23. Respondent Davoren denies any responsibility to file annual reports for years prior to his ownership based on the approved Commission Transfer of Assets and CC&N
24. Respondent Davoren denies all contents of this Paragraph
25. Respondent Davoren denies all contents of this Paragraph

RESPECTFULLY SUBMITTED this 21<sup>st</sup> Day of April, 2006

A handwritten signature in black ink, appearing to read "Michael T. Davoren", is written over a horizontal line.

Michael T. Davoren  
Respondent

Beaver Valley Water Company  
P.O. Box 421  
Payson, AZ 85541

Arizona Corporation Commission  
c/o Utilities Division  
1200 W. Washington  
Phoenix, AZ 85007

## **REQUEST FOR HEARING CHALLENGE OF COMMISSION DECISIONS**

The above named utility hereby challenges Commission Decision #66388

Beaver Valley Water Company herein challenges the decisions of the Arizona Corporation Commission on the following bases:

Page 7, of Staff Report docketed August 11 2003 and subsequently accepted by the Commissioners in Decision #66388, Docket # W-02015A-03-0268, requires approval of the sale of the utility to Michael Davoren or ANY "fit and proper entity", as a condition of the approval of the Rate Increase when, in fact, no said transfer of the utility was in evidence at that time. Application for the transfer of said CC&N for said utility was not docketed until October, 2003 and the agreements pertaining to said transfer by and between the Buyer and Seller were fully contingent on the successful implementation of the aforementioned rate increase. There is no case precedent that requires a utility to sell or liquidate assets as a condition of an approved increase in rates.

Beaver Valley Water Company either as a Partnership, or as a Sole Proprietorship, contends that the application for rate increase was approved by the Commission and that any subsequent reference to a restriction of said rate increase to a sale of assets or change in ownership is not supported in law or by statute.

Beaver Valley Company, Michael Davoren, as the approved operator of said utility, hereby challenges the Commission' Decision # 66388 with regard to unlawful mandate and subsequent refund credits due to the customer base. Mr. Davoren requests the Commission will reverse it's decision for the refund and credit to the customer base, due to the unlawful commission decision, Paragraph 31, and further requests that the Commission will reimburse Beaver Valley Water Company, Michael Davoren, as Sole Proprietor, for any costs incurred for an unlawful imposition of a credit for what was assumed to be a Commission approved increase in rates.



Michael T Davoren  
Beaver Valley Water Company